

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH J. UPCHURCH,

Plaintiff,

v.

INTERNATIONAL UNION OF  
PAINTERS AND ALLIED TRADES  
INDUSTRY PENSION PLAN; and  
NORTHERN CALIFORNIA GLAZIERS,  
ARCHITECTURAL METAL AND  
GLASSWORKERS PENSION TRUST  
FUND,

Defendants.

No. 2:25-cv-1918 DC AC PS

FINDINGS AND RECOMMENDATIONS

Plaintiff paid the filing fee and is proceeding in this matter pro se; pre-trial proceedings are accordingly referred to the undersigned pursuant to Local Rule 302(c)(21). Defendants filed separate motions to dismiss this case. ECF No. 15 (motion of defendant Northern California Glaziers, Architectural Metal and Glassworkers Pension Trust Fund (“Glaziers”)); 18 (motion of defendant International Union of Painters and Allied Trades Industry Pension Plan (“IUPAT”)). Plaintiff opposed the motions (ECF No. 23), and defendants submitted replies (ECF Nos. 24, 26). All parties appeared for oral argument on December 17, 2025. ECF No. 29. For the reasons set forth below the undersigned recommends the Glaziers’ motion to dismiss be GRANTED with leave to amend, and that the IUPAT motion be GRANTED in part and DENIED in part.

## I. Background

This case is brought pursuant to the Employee Retirement Income Security Act of 1974 (ERISA). “The purpose of ERISA is to provide a uniform regulatory regime over employee benefit plans.” Aetna Health Inc. v. Davila, 542 U.S. 200, 208 (2004). ERISA § 502(a)(1)(B) provides that “[a] civil action may be brought—(1) by a participant or beneficiary—... (B) to recover benefits due to him under the terms of his plan, to enforce his rights under the terms of the plan, or to clarify his rights to future benefits under the terms of the plan.” 29 U.S.C. § 1132(a)(1)(B).

### A. The Complaint

Plaintiff filed this case on July 7, 2025. ECF No. 1 at 1. He sues two defendant pension plans: the International Union of Painters and Allied Trades Industry Pension Plan (“IUPAT”) and the Northern California Glaziers, Architectural Metal and Glassworkers Pension Trust Fund (“Glaziers”). Id. at 2. Plaintiff accrued over 29 years of credited service and more than 24 benefits units under the Glaziers Plan. Id. Glaziers is in a “Reciprocal Agreement” with IUPAT, and this plan “requires the first qualifying Plan” (in this case, Glaziers) to “initiate coordination of benefits with other signatory Plans.” Id. at 2.

Plaintiff submitted pension plan applications to each plan. Glaziers delayed but ultimately began paying out plaintiff’s benefits, but IUPAT denied benefits citing lack of covered employment. Id. Plaintiff alleges that IUPAT adopted a “rehabilitation plan” in January 2022, which it erroneously applied to plaintiff’s benefits to deny him access to early retirement. Id. Plaintiff alleges the “Reciprocal Agreement” prohibits changes in plan language that affect reciprocal benefits. Id. Plaintiff further alleges that Glaziers failed to timely calculate Plaintiff’s hours despite repeated requests, which has delayed his ability to plan for retirement. Id. When the calculations were performed, plaintiff learned he could have retired as early as September of 2022. Id.

Plaintiff’s first claim is for denial of benefits under ERISA § 502(a)(1)(B), asserted only against IUPAT. Id. at 2-3. Second, plaintiff alleges breach of fiduciary duty under ERISA § 404(a)(1) against Glaziers, on the basis that Glaziers failed to prudently administer the Plan and

1 delayed in providing accurate service information. Id. Finally, plaintiff alleges violation of the  
2 Reciprocal Agreement by failing to follow its mandatory terms by both Glaziers and IUPAT. Id.  
3 Plaintiff asks the court to order defendants to pay all benefits owed and declare plaintiff eligible  
4 for benefits under the Reciprocal Agreement. Id.

5 B. Documents Incorporated Into the Complaint

6 The legal standards applied to motions to dismiss, including consideration of documents  
7 incorporated into a complaint, are discussed in further detail below. For ease of reference, the  
8 court provides background information obtained from incorporated documents here. Plaintiff  
9 stated on the record at oral argument that he does not dispute the authenticity of these documents  
10 as provided to the court by defendants.

11 First, plaintiff's complaint relies on and incorporates the Reciprocal Agreement for Joint  
12 Industry Pension Funds of All District Councils and Local Unions Affiliated with the  
13 International Union of Painters and Allied Trades ("Reciprocal Agreement"). ECF No. 1 at 2.  
14 The Reciprocal Agreement is an agreement between pension plans sponsored by unions affiliated  
15 with IUPAT; a copy is provided at ECF No. 16, and authenticated by the declaration of Neslim  
16 Macias, pension Manager for the Glaziers Pension Plan (ECF No. 15-1). ECF No. 16 at 3.  
17 Glaziers is a party and signatory to the Reciprocal Agreement, as indicated on page 14 of the  
18 Agreement. Id. at 15. IUPAT is a party and signatory to the Reciprocal Agreement, as indicated  
19 on page 21 of the Agreement. Id. at 22. Section 2 of the Agreement contains a "Cooperation"  
20 clause, which requires signatories to "exchange information" and "cooperate in the exchange of  
21 relevant information and documents." Id. at 4. Exhibit A, Section 12 of the Agreement states,  
22 "The Plan under which an employee first makes application for the benefits shall initiate the  
23 processing of a partial pension with the other signatory plans based upon information supplied by  
24 the employee." Id. at 8.

25 The Reciprocal Agreement sets forth a framework where signatory plans, adopt as part of  
26 their plans Exhibit A of the Reciprocal Agreement. Under Exhibit A, signatory plans agree to  
27 provide partial pensions when a participant "would be eligible for any type of pension . . . if his  
28 total pension credit were treated as service under this plan." ECF No. 18-1 at 200. The "total

1 pension credit” is defined as the “pension credit granted under this plan and the other signatory  
2 plans together.” Id. The “pension credit,” in turn, is defined as “those periods of service during  
3 which credit is granted for benefit accrual purposes,” which “shall not necessarily cover periods  
4 for which a plan grants credit for vesting purposes under ERISA.” Id. Section 2 of Exhibit A  
5 states that “[p]ension credits under each plan shall be based on the rules in effect in that plan at  
6 the time the employment occurred.” Id. Once plans sign on to the Reciprocal Agreement, they  
7 agree that “no change shall be made in the provisions” contained in “Exhibit A of the agreement,  
8 including by modifying the plan in such a way that “would have the effect of changing the  
9 provisions of Exhibit A.” Id.

10 Second, plaintiff’s complaint relies on and incorporates the IUPAT Pension Plan  
11 Documents, which are provided at ECF No. 18-1 beginning on page 4, and authenticated by the  
12 declaration of Daniel R. Williams, Fund Administrator for the IUPAT Pension Fund. ECF No.  
13 18-1 at 1. The IUPAT Plan is a defined benefit pension plan that provides eligible participants  
14 lifetime pension benefits upon their retirement, paid from a trust fund funded by employer  
15 contributions made pursuant to collective bargaining agreements with unions affiliated with the  
16 International Union of Painters and Allied Trades. ECF No. 18-1 at 17-18. The IUPAT Plan, as  
17 amended by the Rehabilitation Plan, governs the pension benefits provided to eligible plan  
18 participants. Id. at 39-44. The IUPAT Plan sets forth the range of retirement benefits available to  
19 participants. The normal retirement benefit, the “Normal Retirement Pension,” is available to  
20 “Vested Participant[s]” upon attaining the plan’s “Normal Retirement Age,” which is the later of  
21 age 65 or their fifth anniversary of plan participation. Id. at 39. The IUPAT Plan also includes  
22 “Early Retirement Pension” and “Special Early Retirement Pension” provisions for certain  
23 individuals who retire as early as age 55. Id. at 42-44. These subsidized benefits are only  
24 available to eligible “Active Employees.”

25 Plan participants are “Active Employees” if they are not retired and have “earned 450  
26 Benefit Hours in the three-year period immediately preceding the relevant date.” Id. at 103.  
27 “Benefit Hours” are defined, in relevant part, as “Hours of Service in Covered Employment with  
28 a FIP Compliant Employer after 2011.” Id. at 106. “Covered Employment” is defined, in

relevant part, as “Hours of Service for which an Employer is obligated to make contributions to the Plan or the Trust for credit to the Plan” or “Paid Hours of Service under a reciprocal agreement.” Id. at 107.

Third, plaintiff’s complaint relies on and incorporates the Rehabilitation Plan implemented by IUPAT. A copy of the Rehabilitation Plan, also authenticated by Mr. Williams, is provided at ECF No. 18-1 beginning at page 131. The Rehabilitation Plan’s changes to benefits became effective on April 1, 2022, and applied “to applications that are received by the Fund Office on or after that date.” Id. at 171. In relevant part, the Rehabilitation Plan eliminated the IUPAT Plan’s benefit that previously allowed vested participants who were not “Active Employees” to receive a reduced pension before age 65. Id. at 173. The plain included the following chart to demonstrate the change:

Old Rule	<p><i>Eligibility:</i> The Deferred Vested Early Retirement Benefit may be payable at any time on or after attainment of age 55 and prior to attainment of age 65.</p> <p><i>Amount:</i> The amount of the Deferred Vested Early Retirement Benefit is equal to the Accrued Benefit with a reduction for early retirement. The benefit is reduced by 6% per year (0.5% per month) that retirement begins before age 65.</p>
New Rule	<p><i>Eligibility:</i> The Deferred Vested Early Retirement Benefit may be payable at any time on or after attainment of age 65.</p> <p><i>Amount:</i> The amount of the Deferred Vested Early Retirement Benefit is equal to the Accrued Benefit.</p>

Id.

The Rehabilitation Plan also adjusted the benefit amounts paid out for participants receiving either of the plan’s two remaining early retirement benefits and certain eligibility requirements for the “Special Early Retirement Benefit,” Id. at 174-175, but did not change the requirement that these benefits are only available to “Active Employees” and did not change the definition of “Active Employees,” id. at 173-175.

Fourth, plaintiff’s complaint relies on and incorporates his application for benefits and the denial thereof. In IUPAT’s denial, issued July 7, 2022, IUPAT stated that plaintiff’s application for benefits, which sought early retirement benefits pursuant to plaintiff’s age at the date of application, was denied because none of his “Benefit Hours” had been reported in the three years

1 prior to his retirement date such that he did “not have at least 450 Benefit Hours reported in the  
2 three years prior to [his] retirement date” as required to be an “Active Employee,” a prerequisite  
3 for an “Early Retirement Pension” under the IUPAT plan and the Rehabilitation Plan. ECF No.  
4 18-1 at 217. Plaintiff appealed this decision with IUPAT in September of 2023. Id. at 220. In  
5 this appeal, he explained that he had “spent the last ~10 years employed by a DC16 Signatory  
6 Contractor, PVBS, Inc., that was wholly owned by me” and that such contractors can have up to  
7 “two (2) Owner-Members who are allowed to work at the trade and with the tools and are not  
8 required to make contributions to any of the Funds mandated in the CBA.” Id. Plaintiff stated  
9 that PVBS was party to an agreement that incorporated the Glaziers Plan and that under that plan,  
10 he should “be credited with 2080 hours (with zero contributions) for each year” worked in this  
11 capacity.” Id. He requested that IUPAT “recognize all the hours earned working at our trade . . .  
12 whether as a Member or Owner-Member, remove the Permanent Break In Service from my  
13 record and award my Pension.” Id.

14 On November 2, 2023, IUPAT issued an Appeal Determination denying plaintiff’s appeal.  
15 ECF No. 18-1 at 222. The Determination incorrectly stated that the Glaziers Plan was not a  
16 signatory to the Reciprocal Agreement but also stated that even if IUPAT permitted the Glaziers  
17 Plan service to count as reciprocal credit, this service would count only for vesting purposes, not  
18 for benefit accrual purposes. Id. at 224. Accordingly, the Determination states, plaintiff’s no-  
19 contribution hours did not qualify for the 450 benefit-hour requirement to become an “Active  
20 Employee.” Id. The Determination also states that “before the enactment of the Rehabilitation  
21 Plan, you may have been eligible for a reduced Vested Pension (if you qualified) but that form of  
22 benefit was eliminated.” Id. at 3. Accordingly, IUPAT denied the appeal, explaining that  
23 “because you do not meet the Active Employee requirements you must wait until you attain  
24 Normal Retirement Age before being eligible for a pension benefit from the Pension Plan.” Id.

25 In June of 2025, plaintiff informed IUPAT that the Glaziers Plan was in fact a signatory to  
26 the Reciprocal Agreement. ECF No. 18-1 at 228. IUPAT reconsidered its decision and issued a  
27 new Appeal Determination, superseding the first. Id. at 230. The 2025 Determination  
28 acknowledged that Glaziers is indeed a signatory to the Reciprocal Agreement but reiterated that

plaintiff was not entitled to an early retirement pension because he was not an “Active Employee.” Id. IUPAT again explained that reciprocal credit “is only available for periods of service during which the credit is granted for benefit accrual purposes” and that plaintiff had no service for benefit accrual proposes under the Glaziers Plan after 2017. Id. at 3. Plaintiff subsequently filed this lawsuit.

## II. Applicable Legal Standards

Defendants move to dismiss on several grounds. IUPAT argues that the complaint must be dismissed because plaintiff fails to allege what benefits he is entitled to, because the Plan was correct to deny plaintiff benefits, and because the Reciprocal Agreement does not bar changes made by the Rehabilitation Plan. ECF No. 18 at 12-18. Glaziers Plan argues plaintiff lacks constitutional standing to bring a suit against it, and that plaintiff fails to state a claim upon which relief can be granted. ECF No. 15.

### A. Legal Standards Governing Motions to Dismiss Under Rule 12(b)(6)

“The purpose of a motion to dismiss pursuant to Rule 12(b)(6) is to test the legal sufficiency of the complaint.” N. Star Int’l v. Ariz. Corp. Comm’n, 720 F.2d 578, 581 (9th Cir. 1983). “Dismissal can be based on the lack of a cognizable legal theory or the absence of sufficient facts alleged under a cognizable legal theory.” Balistreri v. Pacifica Police Dep’t., 901 F.2d 696, 699 (9th Cir. 1990).

In order to survive dismissal for failure to state a claim, a complaint must contain more than a “formulaic recitation of the elements of a cause of action;” it must contain factual allegations sufficient to “raise a right to relief above the speculative level.” Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007). It is insufficient for the pleading to contain a statement of facts that “merely creates a suspicion” that the pleader might have a legally cognizable right of action. Id. (quoting 5 C. Wright & A. Miller, Federal Practice and Procedure § 1216, pp. 235-35 (3d ed. 2004)). Rather, the complaint “must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Twombly, 550 U.S. at 570). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable

1 for the misconduct alleged.” Id.

2 In reviewing a complaint under this standard, the court “must accept as true all of the  
3 factual allegations contained in the complaint,” construe those allegations in the light most  
4 favorable to the plaintiff and resolve all doubts in the plaintiff’s favor. See Erickson v. Pardus,  
5 551 U.S. 89, 94 (2007); Von Saher v. Norton Simon Museum of Art at Pasadena, 592 F.3d 954,  
6 960 (9th Cir. 2010), cert. denied, 564 U.S. 1037 (2011); Hebbe v. Pliler, 627 F.3d 338, 340 (9th  
7 Cir. 2010). However, the court need not accept as true legal conclusions cast in the form of  
8 factual allegations, or allegations that contradict matters properly subject to judicial notice. See  
9 Western Mining Council v. Watt, 643 F.2d 618, 624 (9th Cir. 1981); Sprewell v. Golden State  
10 Warriors, 266 F.3d 979, 988 (9th Cir.), as amended, 275 F.3d 1187 (2001).

11 Pro se pleadings are held to a less stringent standard than those drafted by lawyers.  
12 Haines v. Kerner, 404 U.S. 519, 520 (1972). Pro se complaints are construed liberally and may  
13 only be dismissed if it appears beyond doubt that the plaintiff can prove no set of facts in support  
14 of his claim which would entitle him to relief. Nordstrom v. Ryan, 762 F.3d 903, 908 (9th Cir.  
15 2014). The court’s liberal interpretation of a pro se complaint, however, may not supply essential  
16 elements of the claim that were not pled. Ivey v. Bd. of Regents of Univ. of Alaska, 673 F.2d  
17 266, 268 (9th Cir. 1982); see also Pena v. Gardner, 976 F.2d 469, 471 (9th Cir. 1992). A pro se  
18 litigant is entitled to notice of the deficiencies in the complaint and an opportunity to amend,  
19 unless the complaint’s deficiencies could not be cured by amendment. See Noll v. Carlson, 809  
20 F.2d 1446, 1448 (9th Cir. 1987).

21 When ruling on a Rule 12(b)(6) motion to dismiss, if a district court considers evidence  
22 outside the pleadings, it must normally convert the 12(b)(6) motion into a Rule 56 motion for  
23 summary judgment, and it must give the nonmoving party an opportunity to respond. A court  
24 may, however, consider certain materials—documents attached to the complaint, documents  
25 incorporated by reference in the complaint, or matters of judicial notice—without converting the  
26 motion to dismiss into a motion for summary judgment.” United States v. Ritchie, 342 F.3d 903,  
27 907-08 (9th Cir. 2003). A court may rely on, at the motion to dismiss stage, “unattached evidence  
28 on which the complaint necessarily relies if: [a] the complaint refers to the document; [b] the

document is central to the plaintiff's claim; and [c] no party questions the authenticity of the document.” Beverly Oaks Physicians Surgical Ctr., LLC v. Blue Cross & Blue Shield of Ill., 983 F.3d 435, 439 (9th Cir. 2020) (quoting United States v. Corinthian Colls., 655 F.3d 984, 998–99 (9th Cir. 2011)).

Here, as noted above, plaintiff's complaint incorporates and necessarily relies on the IUPAT Pension Plan, as amended and restated as of January 1, 2021 (“Plan Document”), the Rehabilitation Plan adopted by the IUPAT Plan, the Reciprocal Agreement to which the Glazier's Plan and IUPAT are signatories. The complaint also necessarily relies on and incorporates the administrative documents associated with the denial of his benefits, including IUPAT's July 7, 2022 letter informing plaintiff that his pension application was denied (ECF No. 18-1 at 217), plaintiff's September 10, 2023 appeal (*id.* at 220), IUPAT's November 2, 2023 appeal determination (*id.* at 222), and the amended reappeal determination issued July 3, 2025 (*id.* at 230), which superseded the November 2, 2023 documents. The authenticity of the documents, which have been provided to the court by the defendants, is undisputed (plaintiff stated at the hearing, “those [documents] are the same ones I've looked at.”). Accordingly, these documents may be considered at the motion to dismiss stage. In considering these documents, the court does not accept as true any legal conclusions contained therein.

#### B. Legal Standards Governing Standing and Motions to Dismiss Under Rule 12(b)(1)

“[T]hose who seek to invoke the jurisdiction of the federal courts must satisfy the threshold requirement imposed by Article III of the Constitution by alleging an actual case or controversy.” City of Los Angeles v. Lyons, 461 U.S. 95, 101(1983); *see also* City of Oakland v. Lynch, 798 F.3d 1159, 1163 (9th Cir. 2015) (“A suit brought by a plaintiff without Article III standing is not a ‘case or controversy,’ and Article III federal courts lack subject matter jurisdiction over such suits.” (internal citations omitted)). An actual case or controversy will be held to exist when a plaintiff establishes standing. Lujan v. Defs. of Wildlife, 504 U.S. 555, 560 (1992). “[S]tanding requires that (1) the plaintiff suffered an injury in fact, i.e., one that is sufficiently ‘concrete and particularized’ and ‘actual or imminent, not conjectural or hypothetical,’ (2) the injury is ‘fairly traceable’ to the challenged conduct, and (3) the injury is

1 ‘likely’ to be ‘redressed by a favorable decision.’” Bates v. United Parcel Serv., Inc., 511 F.3d  
 2 974, 985 (9th Cir. 2007) (citing Lujan, 504 U.S. at 560–61).

3 Federal Rule of Civil Procedure 12(b)(1) allows a defendant to move to dismiss a  
 4 complaint for lack of federal jurisdiction. Such “attacks on jurisdiction can be either facial,  
 5 confining the inquiry to allegations in the complaint, or factual, permitting the court to look  
 6 beyond the complaint.” Savage v. Glendale Union High Sch., Dist. No. 205, Maricopa County,  
 7 343 F.3d 1036, 1040 n.2 (9th Cir. 2003) (citing White v. Lee, 227 F.3d 1214, 1242 (9th Cir.  
 8 2000)). “Once the moving party has converted the motion to dismiss into a factual motion by  
 9 presenting affidavits or other evidence properly brought before the court, the party opposing the  
 10 motion must furnish affidavits or other evidence necessary to satisfy its burden of establishing  
 11 subject matter jurisdiction.” Id. (citing St. Clair v. City of Chico, 880 F.2d 199, 201 (9th Cir.  
 12 1989)). “As with a motion for summary judgment, when a court is faced with a factual attack on  
 13 standing pursuant to Rule 12(b)(1), the court must leave the resolution of material factual disputes  
 14 to the trier of fact when the issue of standing is intertwined with an element of the merits of the  
 15 plaintiff’s claim.” Bowen v. Energizer Holdings, Inc., 118 F.4th 1134, 1144 (9th Cir. 2024)  
 16 (citation omitted).

### 17 **III. Glaziers Motion to Dismiss**

18 Glaziers moves to dismiss plaintiff’s complaint for lack of standing under Fed. R. Civ. P.  
 19 12(b)(1) and for failure to state a claim under Fed. R. Civ. P. 12(b)(6). Plaintiff asserts two  
 20 claims against the Glaziers: Count II for Breach of Fiduciary Duty (29 U.S.C. § 1104) and Count  
 21 III for Violation of the Reciprocal Agreement (29 U.S.C. § 1132(a)(3)). ECF No. 1 at 2-3.<sup>1</sup>

#### 22 **A. Breach of Fiduciary Duty Claim**

23 With respect to the administration of his benefits by Glaziers, the only allegation made by  
 24 plaintiff in the complaint is that he “accrued over 29 years of credited service and more than 24  
 25 benefit units under the Northern California Glaziers Pension Plan” but the “Glaziers Plan failed to  
 26 timely calculate Plaintiff’s hours despite repeated requests, which delayed his ability to plan  
 27

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28 <sup>1</sup> Count I for Denial of Benefits is asserted solely against IUPAT. ECF No. 1 at 2.

1 retirement. When they did so, it showed Plaintiff could have retired as early as September 2022.”  
2 Id. at ¶ 12. Plaintiff alleges the Glaziers Plan breached a fiduciary duty owed to him pursuant to  
3 ERISA § 404(a)(1) because it “failed to prudently administer the Plan and delayed providing  
4 accurate service information.”

5 The allegations of the complaint do not establish plaintiff’s standing to bring this claim  
6 because he has not identified how, even if he were to prevail, the Glaziers Plan caused an injury  
7 that is redressable by a favorable decision from this court. Bates, 511 F.3d at 985. The complaint  
8 alleges wrongful calculation of the hours reported to IUPAT, not wrongful denial of benefits by  
9 Glaziers. The complaint does not plainly seek any benefits directly from Glaziers. However,  
10 plaintiff clarified at oral argument on the motion to dismiss that he does, in fact, intend to claim  
11 that benefits were wrongfully denied by Glaziers for a finite period of time, from the date of his  
12 claim to the date that benefits started to be paid (a period of several months). Because this claim  
13 is not clear from the complaint, it cannot be considered at this time. Even if it could be  
14 considered, it would be properly brought as a denial of benefits claim, not as a fiduciary duty  
15 claim. As discussed below, plaintiff should be given leave to amend to clarify this claim.

16 However, setting aside the potential claim for denial of benefits, it is apparent that  
17 plaintiff cannot state a claim against Glaziers for breach of fiduciary duty. Plaintiff asserts that  
18 Glaziers breached its fiduciary duty to him because “[a]s the Qualifying Plan, the Glaziers Plan  
19 was required to initiate the reciprocal claim, notify the IUPAT Fund, and transmit Plaintiff’s  
20 credited hours. It failed to do so. This created the administrative vacuum that led the IUPAT  
21 Fund to process the claim as a standalone request under its internal rules – contrary to the  
22 Agreement.” ECF No. 23 at 4. Glaziers replies that these allegations cannot “establish even the  
23 threshold elements of his breach of fiduciary duties, since the Glaziers Pension Plan is not a  
24 fiduciary and calculating benefits is not a fiduciary function.” ECF No. 26 at 2.

25 Pointing to U.S. Department of Labor guidance, Glaziers contends that the law is clear  
26 that “[c]alculation of services and compensation credits for benefits” is not a fiduciary function.  
27 See Agency guidance at 29 C.F.R. § 2509.75-8 at D-2. Further, pursuant to this same agency  
28 guidance, “determining eligibility for . . . benefits,” “[p]rocessing of claims,” “[m]aintenance of

1 participants' service . . . records," and "[p]reparation of reports concerning participants' benefits"  
2 are not fiduciary functions under ERISA § 3(21). Id.; see also, Amalgamated Clothing & Textile  
3 Workers Union, AFL-CIO v. Murdock, 861 F.2d 1406, 1414 (9th Cir. 1988) ("mishandling of an  
4 individual benefit claim does not violate any of the fiduciary duties defined in ERISA.").  
5 Plaintiff does not contradict this line of authority. It appears clear to the court that the crux of  
6 plaintiff's claim is one for denial of benefits, not breach of fiduciary duty. Because plaintiff has  
7 not identified a fiduciary duty that Glaziers owed or breached, the fiduciary duty claim against the  
8 Glazier's Plan should be dismissed.

9 B. Violation of Reciprocal Agreement Claim

10 Glaziers argues that plaintiff lacks standing and fails to state a claim against the Plan  
11 because the injury he asserts resulted from Glaziers' failure to communicate with IUPAT – that  
12 IUPAT denied his claim under the terms of IUPAT's own plan – cannot be redressed by any  
13 claims against the Glaziers Plan. ECF No. 26 at 2. The court agrees that on this point, plaintiff  
14 failed to identify a claim against Glaziers that is redressable by a court order in his favor, and  
15 accordingly he lacks standing to pursue this claim.

16 Additionally, ERISA does not contemplate a cause of action by a beneficiary for breach of  
17 the Reciprocal Agreement. The civil enforcement provision of ERISA, which plaintiff relies  
18 upon, states in relevant part that a plan participant or beneficiary may bring a civil action either to  
19 "recover benefits due to him under the terms of his plan, to enforce his rights *under the terms of*  
20 *the plan . . .*" 29 U.S.C. § 1132 (a)(3) (emphasis added). Glaziers contends that the allegation  
21 that it breached the Reciprocal Agreement does not come within the scope of this provision  
22 because it is not an allegation that Glaziers violated plan terms. The court agrees that this section  
23 does not appear to provide plaintiff an avenue for civil suit with respect to this claim. Further,  
24 while plaintiff asserts, at least in his opposition to the motion to dismiss, that Glaziers repeatedly  
25 failed to timely calculate his hours and confirm his retirement eligibility and that this delay  
26 "caused plaintiff to lose several months of pension income," this does not explain how Glaziers  
27 violated the Reciprocal Agreement, which only requires that the signatory plans provide the  
28 information to one another, not to individual enrollees. Accordingly, the court concludes that

1 plaintiff cannot proceed on his claim that Glaziers violated the Reciprocal Agreement.

2 C. Leave to Amend

3 Having fully considered Glaziers' motion to dismiss, all relevant papers, and oral  
 4 argument, the undersigned concludes that the motion should be granted but that plaintiff should  
 5 be allowed to file an amended complaint bringing a wrongful denial of benefits claim against  
 6 Glaziers. In general, a pro se litigant "must be given leave to amend his or her complaint unless it  
 7 is 'absolutely clear that the deficiencies of the complaint could not be cured by amendment.'" Colbert v. Borg, 967 F.2d 585, 585 (9th Cir. 1992) (quoting Noll v. Carlson, 802 F.2d 1446, 1448  
 8 (9th Cir. 1987)). Due to a lack of familiarity with the law, the rule "favoring liberality in  
 9 amendments to pleadings is particularly important for the pro se litigant." Lopez v. Smith, 203  
 10 F.3d 1122, 1131 (9th Cir. 2000) (quoting Noll, 802 F.2d at 1448). Here, while plaintiff's claims  
 11 as alleged are not viable, he made clear at oral argument that he does contend that Glaziers  
 12 wrongfully denied him benefits for a finite period of time between his application date and  
 13 Glaziers' delayed approval date. Accordingly, the court determines that plaintiff was attempting  
 14 to bring a claim for improper denial of benefits. Plaintiff should be allowed to amend his  
 15 complaint to properly assert this claim against Glaziers.

17 **IV. IUPAT's Motion to Dismiss**

18 IUPAT moves to dismiss the two claims asserted against it, Wrongful Denial of Benefits  
 19 and Violation of the Reciprocal Agreement, for failure to state a claim up on which relief can be  
 20 granted pursuant to Fed. R. Civ. P. 12(b)(6).

21 A. Denial of Benefits Claim

22 ERISA provides district courts with jurisdiction to review ERISA plan administrators'  
 23 decision to deny benefits under a covered plan. 29 U.S.C. § 1132(e)(1); Thomas v. Oregon Fruit  
 24 Prods. Co., 228 F.3d 991, 992 (9th Cir. 2000).

25 1. Applicable Standard of Review

26 A challenge to a denial of benefits must be reviewed under a de novo standard "unless the  
 27 benefit plan gives the administrator or fiduciary discretionary authority to determine eligibility for  
 28 benefits or to construe the terms of the plan." Firestone Tire & Rubber Co. v. Bruch, 489 U.S.

1 101, 115 (1989). The administrator’s discretionary authority must be “unambiguously retained,”  
2 Kearney v. Standard Ins. Co., 175 F.3d 1084, 1090 (9th Cir. 1999) (*en banc*), such that that the  
3 plan itself unambiguously confers the full and sole discretion to interpret the terms of the plan  
4 upon the plan administrator. Opeta v. Nw. Airlines Pension Plan, 484 F.3d 1211, 1216–17 (9th  
5 Cir. 2007). Where a plan administrator has such power by the terms of the plan itself, a district  
6 court may review the administrator’s denial of benefits only for abuse of discretion. See Abatie  
7 v. Alta Health & Life Ins. Co., 458 F.3d 955, 963 (9th Cir. 2006) (citing Firestone, 489 U.S. at  
8 115); see also Kearney, 175 F.3d at 1087.

9 Here, IUPAT empowers its Trustees as the “named fiduciary of the Plain under ERISA”  
10 and plainly states that the Trustees have “all authority and discretion to manage and control the  
11 Plan and Plan assets that is not reserved to the Employers and Union or delegated to others  
12 through the Trust Agreement or other action, including contracts.” ECF No. 18-1 at 14 (§2.01).  
13 The Trustees are empowered to appoint an administrator, who shall have “the authority and  
14 discretion necessary or appropriate to the performance of his duties.” Id. (§2.02). In light of this  
15 language unambiguously retaining discretionary authority to the Trustees of the IUPAT plan, the  
16 court concludes the abuse of discretion standard of review is appropriate.

## 17 2. Denial of Benefits Analysis

18 IUPAT contends that it did not wrongfully deny benefits because plaintiff does not qualify  
19 for Early Retirement under the plan’s rules, which require that an applicant be an “Active  
20 Employee” to be eligible. ECF No. 18-1 at 41- 44 (§§ 6.07, 6.10). IUPAT notes that this  
21 requirement was unchanged by the Rehabilitation Plan. ECF No. 18 at 14. IUPAT states that  
22 plaintiff was not an “Active Employee” when he applied for Early Retirement because he had not  
23 earned 450 “Hours of Service” in “Covered Employment” (defined in relevant part as “Hours of  
24 Service for which an Employer is obligated to make contributions to the Plan” *or* “Paid Hours of  
25 Service under a reciprocal agreement” (ECF No. 18-1 at 107) in the three years before he filed his  
26 application.

27 Plaintiff acknowledges that he made no contributions to the plan during the relevant time  
28 period. Instead, he spent the last 10 years employed by a contracting business that he owned

1 himself and which, under a collective bargaining agreement that the business signed, was not  
2 required to make contributions to any pension funds in order to receive service hours. Plaintiff  
3 explained in his appeal letter to IUPAT's denial that Glaziers credits owner-members like himself  
4 with "2080 hours (with zero contributions) for each year they work," and he asked IUPAT to  
5 recognize those hours as they are recognized by Glaziers, pursuant to the Reciprocal Agreement.  
6 However, IUPAT concluded that hours credited by Glaziers "with zero contributions" do not  
7 count as "Paid Hours of Service" that result in accruing benefit hours under the terms of its own  
8 plan, and accordingly, plaintiff did not have sufficient hours to start receiving his pension from  
9 IUPAT. ECF No. 18 at 15.

10 Even reviewing under an abuse of discretion standard, the undersigned is unconvinced by  
11 IUPAT's argument. IUPAT equates "hours for which contributes were made" with "paid hour of  
12 service," but the plain language of the Plan itself does not obviously draw this same connection.  
13 As stated above, "Covered Employment" includes "Paid Hours of Service under a reciprocal  
14 agreement." ECF No. 18-1 at 107. This definition of covered employment is listed as a  
15 subsection, separately from and in addition to, another definition: "Hours of Service for which an  
16 Employer is obligated to make contributions to the Plan or the Trust for credit to the Plan[.]" Id.  
17 The fact that these two subsections are separately identified strongly suggests that "Covered  
18 Employment" is not *limited* to hours for which contributions are made, but also separately  
19 references hours which should be credited under a reciprocal agreement, indicates that the  
20 reciprocal hours should be credited whether contributions were made for those hours or not.

21 Further, the term "Paid Hours of Service," which is included in the definition of "Covered  
22 Employment" where reciprocal plans are concerned, is an undefined term in the IUPAT plan.  
23 "Hour of Service" is defined in part as "Each hour for which an Employee is paid or entitled to  
24 payment for the performance or nonperformance of duties with an employer." Id. at 109. This  
25 definition, to the extent it applies, says nothing about hours counting only if contributions are  
26 made to the plan. At oral argument, IUPAT argued that the flaw in plaintiff's theory is that "the  
27 terms of the reciprocal agreement are not an "on off" switch – you have to qualify under each  
28 plan." Even assuming this is the case, and that plaintiff has to qualify for the IUPAT pension

1 under that plan's own terms, it is not at all clear that plaintiff failed to qualify. This is because the  
2 IUPAT plan contemplates, by its own terms, crediting hours that are "Paid Hours of Service"  
3 under a reciprocal agreement, and "Paid Hours of Service" do not plainly include a requirement  
4 of plan contributions. Defendant has not shown that, under the terms of its own plan, the hours  
5 for which plaintiff paid no contribution but for which Glaziers conferred credit hours are not  
6 "Paid Hours of Service" that count toward "Covered Employment." Accordingly, IUPAT has not  
7 met its burden as the moving party, and the motion to dismiss should be denied on this point.

8 B. Violation of the Reciprocal Agreement Claim

9 Plaintiff's claim for violation of the Reciprocal Agreement is brought pursuant to 29  
10 U.S.C. § 1132(a)(3), which is a "catchall" or "safety net" provision in ERISA designed to provide  
11 an avenue for "appropriate equitable relief for injuries caused by violations that [§ 1132] does not  
12 elsewhere adequately remedy." Varity Corp. v. Howe, 516 U.S. 489, 512 (1996). Plaintiff's  
13 claim brought under § 1132(a)(3) ultimately makes the same claim (that he was wrongfully  
14 denied benefits by IUPAT) and seeks the same remedy as his wrongful denial of benefits claim  
15 (provision of benefits) under 29 U.S.C. § 1132(a)(1). Because the remedy is available under §  
16 1132(a)(1) and the theory of liability is similar, plaintiff may not resort to this equitable catchall  
17 provision to seek the same relief. See id. at 515 ("[W]here Congress elsewhere provided  
18 adequate relief for a beneficiary's injury, there will likely be no need for further equitable relief,  
19 in which case such relief normally would not be 'appropriate.'").

20 Plaintiff does, however, make an argument regarding this section that could be cognizable  
21 in relation to the 29 U.S.C. § 1132(a)(1) claim. Plaintiff contends he was wrongfully denied  
22 benefits because IUPAT's Rehabilitation Plan violated language in Exhibit A to the Reciprocal  
23 Agreement, which provides that signatory funds may not make changes to Exhibit A. ECF No.  
24 18-1 at 200. IUPAT contends that Section 3 of the Reciprocal Agreement, by its plain terms,  
25 prohibits changes to how reciprocal hours are recognized pursuant to Exhibit A, but the  
26 Rehabilitation Plan makes no such change. IUPAT contends the Rehabilitation Plan does not  
27 change how the fund recognizes hours worked for which zero contributions are made.  
28 Accordingly, because the Rehabilitation Plan does not change how certain hours are recognized,

1 it does not violate the Reciprocal Agreement. The court agrees that the Rehabilitation Plan does  
2 not obviously impact the Reciprocal Agreement. Accordingly, this portion of the complaint  
3 should be dismissed.

4 C. Leave to Amend

5 As stated above, leave to amend is granted liberally, particularly for pro se plaintiffs,  
6 except where it is clear that amendment cannot cure a problem with the complaint. Here, the  
7 court is recommending only that plaintiff's claim for violation of the Reciprocal Agreement be  
8 dismissed. This claim should be dismissed without leave to amend because amendment would be  
9 futile. The relief which plaintiff seeks under this claim is properly pursued in relation to his claim  
10 for denial of benefits, which the court recommends not be dismissed.

11 **V. Pro Se Plaintiff's Summary**

12 The Magistrate Judge is recommending that the District Judge dismiss your current claims  
13 against Glaziers but allow you to bring an amended complaint that presents a claim against  
14 Glaziers for wrongful denial of benefits as to the period between your application and Glaziers'  
15 recognition of your pension benefits. If the district judge agrees, you should file an amended  
16 complaint within 30 days of the district judge's order.

17 The magistrate judge is also recommending that your claim for violation of the Reciprocal  
18 Agreement against IUPAT be dismissed, but that your claim against IUPAT for wrongful denial  
19 of benefits not be dismissed. This means that if you file an amended complaint to allege  
20 wrongful denial of benefits by Glaziers, you should also include the wrongful denial of benefits  
21 claim against IUPAT in the same amended complaint.

22 If you disagree with these recommendations, you may file objections within 21 days. The  
23 district judge will make the final decision.

24 **VI. Conclusion**

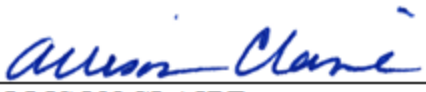
25 Accordingly, the undersigned recommends as follows:

- 26 1. Glaziers' motion to dismiss (ECF No. 15) be GRANTED but that plaintiff be permitted to  
27 file an amended complaint within 30 days of a final decision in order to assert a claim for  
28 wrongful denial of benefits against Glaziers; and

2. IUPAT's motion to dismiss (ECF No. 18) be GRANTED as to plaintiff's claim for violation of the Reciprocal Agreement but DENIED as to plaintiff's claim for wrongful denial of benefits.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Id.; see also Local Rule 304(b). Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections within the specified time may waive the right to appeal the District Court's order. Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez v. Ylst, 951 F.2d 1153, 1156-57 (9th Cir. 1991).

DATED: December 22, 2025

  
ALLISON CLAIRE  
UNITED STATES MAGISTRATE JUDGE